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Washington, D.C.

Calendar No. 896

101ST CONGRESS
2d Session

SENATE

REPORT
101-484

CONNECTICUT COASTAL PROTECTION ACT OF 1990

OCTOBER 1 (legislative day, SEPTEMBER 10), 1990.—Ordered to be printed

Mr. BURDICK, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany H.R. 3468]

The Committee on Environment and Public Works, to which was referred the Act (H.R. 3468) to amend the Act entitled "An Act to extend the Wetlands Loan Act", to provide for the expansion of the Stewart B. McKinney National Wildlife Refuge, having considered the same, reports favorably thereon without amendment and recommends that the Act as amended do pass.

GENERAL STATEMENT

The legislation authorizes appropriation of such sums as may be necessary to acquire an additional 1,000 acres, in three areas, for inclusion in the Stewart B. McKinney National Wildlife Refuge in the State of Connecticut.

PURPOSE AND BACKGROUND

The Stewart B. McKinney National Wildlife Refuge was established as the Connecticut Coastal National Wildlife Refuge in October, 1984, by Public Law 98-548. In May, 1987, under Public Law 100-38, it was renamed after the late Congressman Stewart B. McKinney, who played a leading role in its creation.

The areas to be added to the McKinney Refuge under this legislation include salt marshes, barrier beaches, freshwater wetlands, uplands, and several coastal islands. These habitats are used extensively by waterfowl, shorebirds, wading birds and songbirds, including several species that are listed under the Endangered Species Act or State law. The salt marshes provide wintering, feeding and staging habitat for black ducks, Canada geese, mallards, and diving ducks such as scaup, goldeneye, bufflehead and oldsquaw. These

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marshes also provide nesting habitat for black ducks, mallards, green-wing and blue-wing teal, and northern shovelers. The undeveloped beaches and the islands support nesting populations of the piping plover, a species listed as "threatened" under the Endangered Species Act, along with numerous other species of more common birds. One of the largest known nesting populations of the piping plover and two of the State's 14 least tern colonies are located in the area that would be added to the refuge by this bill.

The existing refuge lands include Chimon Island, which supports New England's largest colony of wading birds. This colony has been growing steadily over the past several years. As a result, wading birds have begun to nest on some of the islands covered by this legislation. All of the marsh areas in the expansion are prime feeding areas for these birds.

The salt marshes that would be added to the refuge by this legislation provide habitat for 23 species of finfish, including the anadromous species alewife and rainbow smelt. Offshore shellfish beds in all of the areas covered by this bill support a variety of species, including oysters, quahogs, clams and mussels. These shellfish and invertebrates represent an abundant and important food supply for many migratory birds.

Without adequate protection, the continuing development of Connecticut's coastal communities makes likely the destruction or degradation of the areas authorized to be acquired under this legislation. Although Federal and State laws protect the areas' wetlands, development for industrial, commercial or residential purposes along the upland border of the wetlands areas often degrades the wetlands and severely reduces its value to fish and wildlife. H.R. 3468 would authorize the acquisition of an additional 1,000 acres, in three areas, for inclusion in the Stewart B. McKinney National Wildlife Refuge to provide long-term protection for this important and diminishing fish and wildlife habitat.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section cites the short title of the bill as the "Connecticut Coastal Protection Act of 1990".

Section 2. Expansion of refuge

Section 2 of H.R. 3468 amends the "Act to extend the Wetlands Loan Act" (98 Stat. 2774), which originally established the Stewart B. McKinney National Wildlife Refuge. This section authorizes acquisition in three locations. Approximately 690 acres may be acquired in the area known as Great Meadows Marsh in Strafford, Connecticut. Another 230 acres, are authorized to be included in the McKinney National Wildlife Refuge at the Manunketesuck River marsh and Menunketesuck Island in Westbrook, Connecticut. Finally, about 80 acres may be added to the existing refuge in the vicitinty of Norwalk Harbor, Connecticut.

Section 2 directs the Secretary of the Interior, acting through the Director of the U.S. Fish and Wildlife Service, to manage the Salt Meadow National Wildlife Refuge as an element of the Stewart B. McKinney National Wildlife Refuge.

This section of the bill also amends the Act to Extend the Wetlands Loan Act to authorize appropriation of such sums as may be necessary to acquire the 1,000 acres identified for inclusion in the McKinney National Wildlife Refuge. The U.S. Fish and Wildlife Service has acquired all but 9 acres of the originally authorized refuge, at a cost of slightly over $2.9 million. Because of the importance of the coastal wetlands and islands to migratory birds and endangered species, the Service issued for public comment in January 1990, a draft environmental assessment on protection of the general area covered in H.R. 3468. Although the Service has not done any appraisals, it roughly estimates the cost of acquiring the 1,000 acres identified in S. 2582 at $9.11 million.

Finally, section 2 of H.R. 3468 would provide that notwithstanding the establishment of refuge boundaries in this bill and in previous Acts, the Secretary would be authorized in the future to acquire additional lands for the refuge under existing, generic authorities and would be directed to manage any such lands as part of the McKinney refuge. Without such an amendment, the Interior Department has indicated that, in deference to Congress' decision to protect a specific area, it will not utilize its standing authority to acquire lands for that refuge outside the legislatively established boundary. The Interior Department maintains that this has often, in cases of refuges located in areas of rapid development, required the passage of additional legislation to address expansion of the refuge or related issues that the Secretary would otherwise have authority to accomplish. In recognition of this situation, section 2 of H.R. 3468 provides that notwithstanding the establishment of refuge boundaries in this and previous Acts, the Secretary would be authorized in the future to acquire additional lands for the refuge under existing, generic authorizes and would be directed to manage any such lands, and the existing Salt Meadow refuge, as part of the McKinney refuge.

HEARINGS

No hearing was held on H.R. 3468 or the companion legislation, S. 2582. The views of the Department of the Interior on S. 2582 were requested on May 10, 1990, and were received on September 6, 1990.

ROLLCALL VOTES

Section 7(b) of rule XXVI of the Standing Rules of the Senate and the rules of the Committee on Environment and Public Works require that any rollcall votes taken during consideration of this bill be announced in this report. The bill was ordered reported on September 25, 1990, by unanimous voice vote.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires each report to contain a statement of the cost of the reported bill prepared by the Congressional Budget Office. That statement follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 28, 1990.

Hon. QUENTIN N. BURDICK,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3468, the Connecticut Coastal Protection Act of 1990, as ordered reported by the Senate Committee on Environment and Public Works on September 25, 1990. While it is not possible to estimate land acquisition costs and other expenses with precision at this time, CBO expects that implementation of this legislation would cost the federal government between $11 million and $19 million over the next five years, assuming appropriation of the necessary sums. Enactment would result in no costs to state or local governments.

H.R. 3468 would add about 1,000 acres to the Stewart B. McKinney National Wildlife Refuge in Connecticut. The act would eliminate the existing $2.5 million cap on appropriations and authorize the Secretary of the Interior to make future boundary changes as necessary, with subsequent acquisition of new lands subject to appropriations. Finally, the act would merge the Salt Meadow National Wildlife Refuge with the McKinney refuge.

Of the 1,000 acres proposed for addition to the refuge, approximately 300 acres are held by various public agencies. CBO expects that these lands would be managed through federal/local cooperative agreements and would not have to be purchased at this time. Costs of acquiring approximately 700 acres of privately held lands cannot be estimated precisely in the absence of final appraisals. However, preliminary assessments indicate that purchase of all private property within the new refuge boundaries would cost the federal government between $10 million and $18 million over the next five years. Additional costs to restore some lands, operate and maintain new property, and make Refuge Revenue Sharing payments would be about $1 million over the same five-year period.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

DEPARTMENTAL REPORTS

No departmental report was received on H.R. 3468. The following departmental report was received on companion legislation, S. 2582:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, September 6, 1990.

Hon. QUENTIN N. BURDICK,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 2582, a bill "To amend the Act entitled 'An Act to extend the Wetlands Loan Act' to provide for the expansion of the Stewart B. McKinney National Wildlife Refuge."

We support the enactment of S. 2582 if it is amended as suggested herein. However, this is not a commitment to fund acquisition of the lands; they must compete against all other unacquired areas in our priority ranking and budgetary process.

S. 2582 would authorize acquisition of an additional 1,000 acres, in three areas, for the Stewart B. McKinney National Wildlife Refuge. The existing acquisition expenditure ceiling for the refuge of $2.5 million would be replaced with an authorization of such sums as may be necessary. The Secretary is required to report to Congress from time to time on proposals for acquiring additional lands for the refuge, and is directed to manage the existing Salt Meadow refuge as part of the McKinney refuge.

In October 1984, the McKinney NWR was established as the Connecticut Coastal NWR by Public Law 98–548. In My 1987, under Public Law 100–38, it was renamed after the late Congressman Stewart B. McKinney, who played a leading role in its creation.

To date, the Service has acquired all but 9 acres of the originally authorized refuge, at a cost of slightly over $2.9 million. Because of the importance of the coastal wetlands and islands to migratory birds and endangered species, the Service issued for public comment in January a draft environmental assessment on protection of the general area covered in S. 2582. Although we have done no appraisals, we roughly estimate the cost of acquiring these 1,000 acres at $9.11 million.

The area covered by this legislation includes salt marsh, barrier beach, freshwater wetlands, uplands, and several coastal islands. These habitats are extensively used by waterfowl, shorebirds, wading birds and songbirds, including several Federally and State-listed threatened and endangered species.

This marsh habitat is a wintering, feeding and staging area for black ducks, Canada geese, mallards, and diving ducks such as scaup, goldeneye, bufflehead and oldsqaw. It is a nesting habitat for black ducks, mallards, green-wing and blue-wing teal, and northern shovellers. The undeveloped beaches and the islands support nesting populations of the threatened piping plover, along with numerous other species of more comon birds. One of the largest known nesting populations of the piping plover and two of the state's 14 least tern colonies are located in the proposed expansion.

Chimon Island in the existing refuge supports New England's largest wading bird colony. It has been growing steadily over the past several years and the birds are expanding their nesting onto some of the islands covered by the expansion proposal. All of the

marsh areas in the expansion are prime feeding areas for these colonies.

Twenty-three species of finfish are known to inhabit the salt marshes of the proposed expansion. They include the anadromous species alewife and rainbow smelt. Offshore shellfish beds in all of the proposed expansion areas support a variety of species, including oysters, guahogs, clams and mussels. These shellfish and invertebrates represent an abundant and important food supply for many migratory birds.

The need for protection of this area results from the continuing development pressure in the coastal communities in Connecticut. In spite of Federal and State regulations protecting wetlands, industrial, commercial, and residential development along the border of a wetland area can degrade the wetland and severely reduce its value to fish and wildlife. The expansion of the McKinney refuge would provide long-term protection for this important and diminishing wildlife habitat.

When Congress legislatively establishes a refuge, it is the Department's position that the Secretary, in deference to Congress' decision to protect a specific area, will not utilize his standing authority to acquire lands for that refuge outside that boundary. This has often, in cases of refuges located in areas of rapid development, required the passage of additional legislation to address expansion of the refuge or related issues that the Secretary would otherwise have has authority to accomplish.

For example, since the statutory establishment of the San Francisco Bay National Wildlife Refuge, five different laws have addressed expansions, changes in acquisition authority, or changes in authorization ceilings for that refuge, none of which would have been necessary had the refuge, none of which would have been necessary had the refuge been administratively established.

In recognition of this situation, the House version of the legislation, H.R. 3468, provides that notwithstanding the establishment of refuge boundaries in this and previous Acts, the Secretary would be authorized in the future to acquire additional lands for the refuge under existing, generic authorities and would be directed to manage any such lands, and the existing Salt Meadow refuge, as part of the McKinney refuge.

We believe this approach is preferable, and requests that S. 2582 be amended to conform the House bill in this regard.

The Office of Management and Budget has advised that it has no objection to the presentation of this report from the standpoint of the Administration.

Sincerely,

KNUTE KUNDSEN, Jr.,
Deputy Assistant Secretary.

CHANGES IN EXISTING LAW

In the opinion of the Committee, it is necessary to dispense with the requirements of subsection (4) of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate.

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